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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,493	04/09/2004	Donald Edward Williams SR.	OSU 0018 PA/41096.37	1428

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EXAMINER

MEISLIN, DEBRA S

ART UNIT	PAPER NUMBER
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3723

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/821,493

Applicant(s)

WILLIAMS, DONALD EDWARD

Examiner

D S. Meislin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 35, 37, 38 and 40-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 35, 37-38 and 40-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. Claims 35, 37-38 and 40-47 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In claim 35, "adjusting at least one vehicular suspension setup variable in a race car" constitutes new matter unsupported by the original disclosure. Such a limitation broadens the scope of the original disclosure.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 35, 37-38, 40-41 and 43-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hermanson in view of Figure 1 of the instant invention, and Hsien ('238) or Mitchell.

Hermanson et al discloses all of the claimed subject matter except for having a nut disposable on a coil-over shock absorber of a race car for adjusting at least the race car ride height and a continuous arrangement of teeth. Hermanson discloses a wrench having a handle, a nut engaging member, a ratcheting member wherein the pawls make up a portion of a race and a rotatable workpiece have outer engaging portions for rotation thereof. Figure 1 of the instant invention discloses a nut disposable on a coil-over shock absorber of a race car for adjusting at least the race car ride height. Note

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also, page 2, paragraph [0005] of the instant specification. It would have been obvious to one having ordinary skill in the art to use the device of Hermanson on a nut disposable on a coil-over shock absorber to enable rotation and adjustment thereof for adjusting at least the race car ride height as taught by Figure 1 of the instant invention.

With respect to claim 37, the examiner takes Official Notice that the use of thrust bearings is notoriously old and well known in the art for engagement with a nut to hold the nut in place. It would have been obvious to one having ordinary skill in the art to provide the device of Hermanson et al with at least one thrust bearing as such is notoriously old and well known in the art for engagement with a nut to hold the nut in place. The common knowledge or well-known in the art statement is taken to be admitted prior art because applicant failed to traverse the examiner's assertion of official notice.

With respect to the "continuous arrangement of teeth" and to claims 40-41 and 45, Hsien discloses a continuous arrangement of teeth and a ratcheting mechanism with spacing between adjacent teeth of 2 to 4 degrees. It would have been obvious to one having ordinary skill in the art to form the device of Hermanson with a continuous arrangement of teeth and with teeth spacing of 2 to 4 degrees to increase the torque and reduce the swing angle as taught by Hsien.

With respect to the "continuous arrangement of teeth" and to claims 40-41 and 45, Mitchell discloses a continuous arrangement of teeth, a ratcheting mechanism with spacing between adjacent teeth of 8 degrees and that any number of teeth may be used resulting in various degrees of arc swing for the ratchet (see column 5, lines 10-17). It

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would have been obvious to one having ordinary skill in the art to form the device of Hermanson with a continuous arrangement of teeth and with teeth spacing of up to 6 degrees or of 4 degrees as such would have been an obvious matter of choice to produce a desired arc swing angle as taught by Mitchell.

4. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hermanson in view of Figure 1 of the instant invention and Hsien ('238) or Mitchell as applied above, in further view of Karlsson.

Karlsson discloses an angular bore in a nut and a securing member in the bore. It would have been obvious to one having ordinary skill in the art to form the nut of Hermanson as modified by Figure 1 of the instant invention with an angular bore and a securing member in the bore to lock the nut in place as taught by Karlsson.

5. In the alternative, claims 35, 37-38, 40-41 and 43-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Figure 1 of the instant invention in view of Hermanson, and Hsien ('238) or Mitchell.

Figure 1 of the instant invention discloses all of the claimed subject matter except for having a ratcheting member wherein the pawls make up a portion of a race, a hinge and a continuous arrangement of teeth. Figure 1 of the instant invention discloses a nut disposable on a coil-over shock absorber of a race car for adjusting at least the race car ride height. Note also, page 2, paragraph [0005] of the instant specification.

Hermanson discloses a wrench having a handle, a nut engaging member, a ratcheting member wherein the pawls make up a portion of a race, a hinge, and a rotatable workpiece have outer engaging portions for rotation thereof. It would have been

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obvious to one having ordinary skill in the art to form the device of Figure 1 of the instant invention with a ratcheting mechanism wherein the pawls make up a portion of a race to allow for quick rotation of the workpiece as taught by Hermanson. It would have been obvious to one having ordinary skill in the art to form the device of Figure 1 of the instant invention with a hinge to allow for selected orientation of the tool head as taught by Hermanson.

With respect to claim 37, the examiner takes Official Notice that the use of thrust bearings is notoriously old and well known in the art for engagement with a nut to hold the nut in place. It would have been obvious to one having ordinary skill in the art to provide the device of Figure 1 of the instant invention with at least one thrust bearing as such is notoriously old and well known in the art for engagement with a nut to hold the nut in place. The common knowledge or well-known in the art statement is taken to be admitted prior art because applicant failed to traverse the examiner's assertion of official notice.

With respect to the "continuous arrangement of teeth" and to claims 40-41 and 45, Hsien discloses a continuous arrangement of teeth and a ratcheting mechanism with spacing between adjacent teeth of 2 to 4 degrees. It would have been obvious to one having ordinary skill in the art to form the device of Figure 1 of the instant invention with a continuous arrangement of teeth and with teeth spacing of 2 to 4 degrees to increase the torque and reduce the swing angle as taught by Hsien.

With respect to the "continuous arrangement of teeth" and to claims 40-41 and 45, Mitchell discloses a continuous arrangement of teeth, a ratcheting mechanism with

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spacing between adjacent teeth of 8 degrees and that any number of teeth may be used resulting in various degrees of arc swing for the ratchet (see column 5, lines 10-17). It would have been obvious to one having ordinary skill in the art to form the device of Figure 1 of the instant invention with a continuous arrangement of teeth and with teeth spacing of up to 6 degrees or of 4 degrees as such would have been an obvious matter of choice to produce a desired arc swing angle as taught by Mitchell.

6. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Figure 1 of the instant invention in view of Hermanson, and Hsien ('238) or Mitchell in further view of Karlsson.

Karlsson discloses an angular bore in a nut and a securing member in the bore. It would have been obvious to one having ordinary skill in the art to form the nut of Figure 1 of the instant invention with an angular bore and a securing member in the bore to lock the nut in place as taught by Karlsson.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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8. Applicant's arguments filed December 29, 2006 have been fully considered but they are not persuasive.

The claimed "continuous engagement" or "continuous teeth" have been disclosed by Hsien ('238) or Mitchell as set forth, above.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, there is some teaching, suggestion, or motivation to do so found in the references themselves. It would have been obvious to use the device of Hermanson on a nut disposable on a coil-over shock absorber to enable rotation and adjustment thereof for adjusting at least the race car ride height as taught by Figure 1 of the instant invention. It would have been obvious to form the device of Figure 1 of the instant invention with a ratcheting mechanism wherein the pawls make up a portion of a race to allow for quick rotation of the workpiece as taught by Hermanson. It would have been obvious to form the device of Figure 1 of the instant invention with a hinge to allow for selected orientation of the tool head as taught by Hermanson. It would have been obvious to form the device of Hermanson with a continuous arrangement of teeth and with teeth spacing of 2 to 4 degrees to increase the torque and reduce the swing angle as taught by Hsien. It would

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have been obvious to form the device of Hermanson with a continuous arrangement of teeth and with teeth spacing of up to 6 degrees or of 4 degrees as such would have been an obvious matter of choice to produce a desired arc swing angle as taught by Mitchell.

Hermanson or Figure 1 of the instant invention were not applied to the rejection of the claims to teach the claimed "continuous engagement" or "continuous teeth". Hsien ('238) or Mitchell were applied to the rejection of the claims to teach the concept of providing the claimed "continuous engagement" or "continuous teeth" and the spacing thereof and not to disclose what was taught by the primary references to Hermanson (a wrench having a handle, a nut engaging member, a ratcheting member wherein the pawls make up a portion of a race and a rotatable workpiece have outer engaging portions for rotation thereof, an open ended construction) or to Figure 1 of the instant invention (a toothed nut disposable on a coil-over shock absorber of a race car for adjusting at least the race car ride height, an open ended construction). Consequently, Hsien ('238) or Mitchell need not disclose the nut or shock absorber.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. S. Meislin whose telephone number is 571 272-4487. The examiner can normally be reached on M-F, alt. Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 571 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



D.S. Meislin
Primary Examiner
Art Unit 3723

March 14, 2007